
THE CALIFORNIA EDUCATORS' GUIDE TO SCHOOL LAW

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Orange County Department of Education

Costa Mesa, California

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PREFACE

The field of education law encompasses a wide range of subjects. Education law is based on common law, constitutional law and federal and state statutes. It is a constantly changing area in which Congress and state legislatures are continually enacting legislation to regulate the activities of universities, community colleges and public schools.

Education law encompasses the law relating to students, student discipline and the First Amendment rights of students. A body of case law has developed with respect to student attendance, student searches, drug testing, discipline, suspension and expulsion of students and students' rights to freedom of speech and the press. Education law also encompasses state statutory provisions relating to the rights of certificated and classified employees with respect to tenure, seniority, classification and permanent status as well as collective bargaining rights. Federal statutes relating to the education of disabled students have given rise to a body of case law interpreting the Individuals with Disabilities Education Act which was most recently amended in 2004. In addition, a body of constitutional law has developed with respect to the establishment of religion and the free exercise of religion clauses of the First Amendment in relation to public schools.

The area of education law is a diverse one which cuts across traditional areas of the law school curriculum. It encompasses constitutional law, federal statutory law relating to civil rights and the rights of the disabled, labor law, and state statutory provisions regulating colleges and universities and the public schools.

The California Educators' Guide to School Law is designed for school administrators, school board members, graduate and law school students interested in education law, and individuals who are affiliated with the field of education. The Seventh Edition has updated the chapter on the Individuals with Disabilities Education Act (IDEA) to reflect the regulations issued in August 2006.

Again, without the support of my staff and especially the assistance of my clerical staff, Joanna Robold and Barbara Finley, this Guide would have been an impossible task. To them I express my sincere appreciation.

January 2018

Ronald D. Wenkart

ABOUT THE AUTHOR

Since 1978, Mr. Wenkart has been an attorney representing school districts in California and is currently the General Counsel, Schools Legal Service, for the Orange County Department of Education in Costa Mesa, California. He and his staff represent school districts, community college districts, Regional Occupational Programs, the Orange County Superintendent of Schools and the Orange County Board of Education in matters pertaining to education law.

A number of his articles on education law have been published in West's Education Law Reporter. Mr. Wenkart has conducted classes as an adjunct professor on education law in colleges, universities and law schools. He is a member of the Orange County Bar Association, past president of the California Council for School Attorneys, California School Boards Association and served on the Board of Directors for the National School Boards Association, Council of School Attorneys.

He has been a speaker at seminars and made numerous presentations on a variety of topics relating to education law. Mr. Wenkart has been very active in legislative efforts to provide additional federal funding for special education.

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